

D.B.CIVIL SPECIAL APPEAL NO. 109/2007

Vikas Sharma

v.

Tax Recovery Officer

Date of order : 09.03.2007.

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Prahlad Sharma for the appellant .

This appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The appellant had filed the writ petition challenging the orders of the Tax Recovery Officer in the matter of sale of the assets of M/s Sharma Medical Hall.

The case of the appellant is that the business of M/s Sharma Medical Hall is joint family business and the assets belongs to Hindu Undivided Family, and the Tax Recovery Officer can not put them on sale for recovering the tax due against Ramji Lal Sharma or his son Kishori Lal Sharma. The appellant is the grand-son of Ramji Lal Sharma and son of Kishori Lal Sharma.

We are of the view that the Income-tax Act contains provisions under which it is open to the appellant to seek his remedy. He can not be permitted to stall the recovery proceedings by contending that the property belongs to Hindu

Undivided Family which finding can not be set aside collaterally in these proceedings. In these premises, we are not inclined to entertain the writ petition which is accordingly dismissed.

(MOHAMMAD RAFIQ), J.

(S.N.JHA), C.J.

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